

**REMARKS****INTRODUCTION:**

In accordance with the foregoing, claims 2 and 10 have been canceled without prejudice or disclaimer, claims 1 and 9 have been amended, and new claim 16 has been added. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 3-9, and 11-16 are pending and under consideration. Reconsideration is respectfully requested.

**ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:**

Applicants request entry of this Rule 116 Response and Request for Reconsideration because:

- (a) at least certain of the rejected claims have been canceled, thereby at least reducing the issues for appeal;
- (b) it is believed that the amendments of claims 1 and 9 and cancellation of claims 2 and 10, as suggested by the Examiner, and addition of claim 16 put this application into condition for allowance;
- (c) the amendments were not earlier presented because the Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed;
- (d) the amendments of claim 1 and 9 and addition of claim 16 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and/or
- (e) the amendments place the application at least into a better form for appeal. No new features or new issues are being raised; and/or

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." ( Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**REJECTION UNDER 35 U.S.C. §102:**

In the Office Action, at pages 2-3, numbered paragraphs 2-3, claims 1 and 9 were

rejected under 35 U.S.C. §102(b) as being anticipated by Foote et al. (USPN 6,339,211). This rejection is traversed and reconsideration is requested.

Claims 1 and 9 have been amended as suggested by the Examiner (see allowable subject matter below) and are now submitted to be allowable. Thus, the rejection of claims 1 and 9 under 35 U.S.C. §102(b) as being anticipated by Foote et al. (USPN 6,339,211) is submitted to be moot, and it is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 1 and 9 under 35 U.S.C. §102(b) as being anticipated by Foote et al. (USPN 6,339,211).

#### **REJECTION UNDER 35 U.S.C. §103:**

A. In the Office Action, at page 3, numbered paragraphs 5- 6, claims 5, 6 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Foote et al. (USPN 6,339,211) in view of Okabayashi et al. (USPN 5,999,764). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Claims 1 and 9 have been amended as suggested by the Examiner (see allowable subject matter below) and are now submitted to be allowable. Thus, the rejection of claims 1 and 9 under 35 U.S.C. §103(a) as being unpatentable over Foote et al. (USPN 6,339,211) in view of Okabayashi et al. (USPN 5,999,764) is submitted to be moot, and it is respectfully submitted that the Examiner reconsider and withdraw the rejection of claims 1 and 9 under 35 U.S.C. §103(a) as being unpatentable over Foote et al. (USPN 6,339,211) in view of Okabayashi et al. (USPN 5,999,764).

Since claims 5, 6 and 14 depend from amended claims 1 and 9, respectively, it is respectfully submitted that claims 5, 6 and 14 are patentable over Foote et al. (USPN 6,339,211) in view of Okabayashi et al. (USPN 5,999,764) for at least the reasons that amended claims 1 and 9 are submitted to be patentable over Foote et al. (USPN 6,339,211) in view of Okabayashi et al. (USPN 5,999,764).

B. In the Office Action, at page 4, numbered paragraphs 7-8, claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Foote et al. (USPN 6,339,211) in view of Kawata et al. (USPN 5,932,125). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Claim 1 has been amended as suggested by the Examiner (see allowable subject matter below) and is now submitted to be allowable. Thus, the rejection of claim 1 under 35 U.S.C. §103(a) as being unpatentable over Foote et al. (USPN 6,339,211) in view of Kawata

et al. (USPN 5,932,125) is submitted to be moot, and it is respectfully submitted that the Examiner reconsider and withdraw the rejection of claim 1 under 35 U.S.C. §103(a) as being unpatentable over Foote et al. (USPN 6,339,211) in view of Kawata et al. (USPN 5,932,125).

Since claim 8 depends from amended claim 1, it is respectfully submitted that claim 8 is patentable over Foote et al. (USPN 6,339,211) in view of Kawata et al. (USPN 5,932,125) for at least the reasons that amended claim 1 is submitted to be patentable over Foote et al. (USPN 6,339,211) in view of Kawata et al. (USPN 5,932,125).

**ALLOWABLE SUBJECT MATTER:**

In the Office Action, at page 4, numbered paragraphs 9, claims 2-4, 7, 10-13 and 15 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Independent claim 1 has been amended, in accordance with the Examiner's suggestion, to include the features of claim 2, and claim 2 has been cancelled without prejudice or disclaimer. Thus, amended claim 1 is submitted to be in allowable form. Since claims 3-4 and 7 depend from amended claim 1, claims 3-4 and 7 are submitted to be allowable for at least the reasons that amended claim 1 is submitted to be allowable.

Independent claim 9 has been amended, in accordance with the Examiner's suggestion, to include the features of claim 10, and claim 10 has been cancelled without prejudice or disclaimer. Thus, amended claim 9 is submitted to be in allowable form. Since claims 11-13 and 15 depend from amended claim 9, claims 11-13 and 15 are submitted to be allowable for at least the reasons that amended claim 9 is submitted to be allowable.

**NEW CLAIM:**

New claim 16 recites that the features of the present invention include a fusing device of an electrophotographic image forming apparatus, the device comprising: a fusing unit which includes a heating portion, a fixing frame which fixes and supports the heating portion at one side, and a fusing film sliding along a circumference of the fixing frame; a pressing roller which presses the fusing film to the heating portion to slide the fusing film, wherein the heating portion is in contact with the pressing roller and forms a fusing nip portion having a predetermined width; and a nip plate to contact the pressing roller through the fusing film and to form the fusing nip portion. Nothing in the prior art teaches or suggests such.

It is submitted that this new claim distinguishes over the prior art.

**CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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